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REMARKS

Applicant acknowledges the Examiner's review of the specification, claims, and drawings and thanks the Examiner for the courtesies extended Mr. Burkhart at the personal interview on March 8, 2006. In light of the above amendments and following remarks, Applicants respectfully request reconsideration of the present application. The amendments and remarks presented herein are fully supported by the application as originally filed. No new matter has been entered.

STATUS OF THE CLAIMS:

Claims 1, 3-21, and 23-47 are pending in the application. Claims 35-39 are withdrawn from consideration as being drawn to a non-elected invention. Claims 2 and 22 have been cancelled herein. Claims 13, 15-20, and 45 were indicated as being allowable if rewritten in independent form. Claims 13 and 15 have been rewritten in independent form. Accordingly, Claims 13 and 15 are now allowable along with their respective dependent claims, namely Claims 16-20 and 45.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102:

The Examiner rejects Claims 1-12, 14, 21-34 and 40-44 under 35 U.S.C. § 102(a) as being anticipated by U.S. Patent No. 6,607,065 to Peppel.

As agreed during the interview, Applicant has amended Claims 1 and 40 as follows:

1. A paddle diverter assembly comprising:
an arm; and
an actuator for moving said arm from a home position to a diverting position, said actuator being adapted to permit said arm

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to move away from the diverting position upon impact with an object to be diverted to thereby absorb at least some of the impact between the arm and the object being diverted and adapted to return said arm to said diverting position by an electromagnetic field.

40. A method of selectively diverting an object, said method comprising:
providing at least one paddle assembly having an arm;
moving the arm with a drive assembly to a diverting position; and
absorbing at least some of the impact between the object and the arm with the drive assembly allowing the arm to move away from the diverting position when the arm makes contact with an object to thereby absorb; and returning the arm to the diverting position with an electromagnetic field.

As discussed during the interview, Applicant respectfully submits that Claims 1 and 40 are patentably distinguishable over prior art of record. None of the references of record disclose or suggest the claimed combination. For example, none of the references disclose or suggest a paddle diverter that includes an actuator for moving an arm from a home position to a diverting position, with the actuator being adapted to permit the arm to move away from the diverting position upon impact with an object to be diverted to thereby absorb at least some of the impact between the arm and the object being diverted and, further, adapted to return the arm to the diverting position by an electromagnetic field. Therefore, Applicant respectfully urges that Claims 1 and 40 and their respective dependent claims, namely Claims 3-12, 14, and 41-45, are patentably distinguishable over the prior art of record.

With reference to Claim 21, Claim 21 has been amended to call for:

21. (currently amended) A diverter system comprising:

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a conveying surface having a conveying direction and for conveying an article at a conveying speed; a pair of diverter assemblies at opposite sides of said conveying surface, each of said diverter assemblies comprising an arm mounted for pivotal movement between a non-diverting position and a diverting position wherein said arm is pivoted across at least a portion of said conveying surface; and a drive system independently and selectively moving said arms between said diverting positions and said non-diverting positions wherein said arms may be individually moved to their respective diverting positions and wherein an article conveyed on said conveying surface is diverted in a diverting direction when the article contacts one of said arms when said one arm is in said diverting position, wherein said drive system permits said arms to pivot away from their diverting positions when impacted by an article to thereby reduce the impact on the article being diverted and return said arms to their diverting positions by an electromagnetic field.

Applicant respectfully urges that neither Peppel nor U.S. Patent No. 3,093,236 to McLaughlin, which was noted in the personal interview, discloses or suggests the claimed combination. For example, neither reference discloses or suggests a diverter system that includes a pair of diverter assemblies in combination with the drive system independently and selectively moving the arms of the diverter assembly between diverting positions and non-diverting positions and, further, wherein the drive system permits the arms to pivot away from their diverting positions when impacted by an article to thereby reduce the impact on the article being diverted and return the arms to their diverting position by electromagnetic force. Accordingly, Applicant respectfully submits that Claim 21 and its dependent claims, namely Claims 23-34, are patentably distinguishable over Peppel or McLaughlin or in combination with any other reference of record.

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In light of the above amendments and remarks, Applicant respectfully submits that the application is now in condition for allowance and solicits a Notice to that effect.

Should the Examiner have any questions or comments, the Examiner is invited to contact the undersigned at (616) 975-5506.

Respectfully submitted,

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